

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-34 were pending prior to the Final Office Action. Claim 35 has been added. Thus, claims 1-35 are pending. Claims 1, 3, 5, 6, 7, and 21 are independent.

ALLOWABLE SUBJECT MATTER

Applicant appreciates that claims 3-33 are indicated to define allowable subject matter.

It is noted the Examiner has not commented upon claim 34. However, since claim 34 directly depends from claim 29 which has been indicated to be allowable, Applicant will proceed as if claim 34 is also allowable.

§ 102 REJECTION - YAMADA

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Yamada et al. (USPN 6,067,171). Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element.

See *M.P.E.P.* 2131; *M.P.E.P.* 706.02. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Yamada fails to teach or suggest each and every claimed element. For example, independent claim 1 recites, in part, "an image selecting device which selects a subset of images to be transmitted from a plurality of images." *Emphasis added.*

As will be demonstrated below, Yamada cannot be relied upon to teach or suggest at least this feature. The Examiner asserts that the document sensor for detecting the presence of document is equivalent to the image selecting device as recited. See *Final Office Action*, pages 2-3, item 3.

However, there is no concept of selecting a subset of images from a plurality of images disclosed in Yamada. Indeed, there is no concept of "selecting" images at all as argued by Applicant in previous Replies to Office Actions. Applicant maintains this argument.

But for the sake of argument, Applicant assumes that the Examiner's assertion is true. However, even under this assumption, Yamada still fails. In Yamada, when the document is

fed to the facsimile machine, the machine simply reads and stores the images into the SRAM 15. See Yamada, column 4, lines 40-42. The facsimile machine of Yamada cannot complete transmitting unless all of a sequence of scripts (sheets) are transmitted. None of the cited references indicate a concept of randomly selecting images to be transmitted.

In other words, with Yamada, it is an **all or nothing** proposition. Indeed, the Examiner admitted as much in the Final Office Action. The Examiner stated "As stated by the prior art (Yamada et al.) in col. 4, lines 42-45, a judgment is made whether or not **all** the image data stored in the RAM 15 can be transmitted." *Emphasis added; See Final Office Action, page 5, item 5.*

Thus, even under the Examiner's interpretation, Yamada cannot be relied upon to teach or suggest the feature of a subset of images from a plurality of images as featured in claim 1. Therefore, independent claim 1 is distinguishable over Yamada. Claim 2 depends from claim 1. Therefore, for at least the reasons stated with respect to claim 1, claim 2 is also distinguishable over Yamada.

Applicant respectfully requests that the rejection of claims 1 and 2 based on Yamada be withdrawn.

NEW CLAIMS

Claim 35 has been added through this reply. Claim 35 depends from independent claim 31. Thus, for at least due to the dependency thereon, claim 35 is allowable.

The feature recited in claim 35 allows for easy selection of images to be transmitted. For example, when an image to be transmitted is selected by displaying main images frame by frame, significant time can be taken for frame advancing and selecting the image to be transmitted.

On the other hand, when an image or images to be transmitted is selected by displaying the multi-image of the plurality of thumbnail images as recited in claim 35, the time taken to select and set the images to be transmitted can be reduced. Also, the quality of thumbnail images is satisfactory for the selection process.

Applicant respectfully requests that the new claim 35 be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

U.S. Application No. 09/660,240
Docket No. 0879-0274P
DUE: February 28, 2005
Art Unit: 2626
Page 28 of 28

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH &, BIRCH, LLP

By: 

D. Richard Anderson
Reg. No. 40,439

HNS

DRA/HNS
00879-0274P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000